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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,455	02/07/2001	Koenraad Reybrouck	1316N001654	3409

7590 09/29/2005  
Harness, Dickey & Pierce, P.L.C.  
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Bloomfield Hills, MI 48303

EXAMINER

SY, MARIANO ONG

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 09/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/778,455	Applicant(s) REYBROUCK ET AL.	
	Examiner Mariano Sy	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 6-8 and 28-33 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7 and 28-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06062005</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 28, 2005 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 6, 7, and 28-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said pressurized fluid" in line 29. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation "said pressurized fluid" in line 28. There is insufficient antecedent basis for this limitation in the claim.

Claim 32 recites the limitation "said pressurized fluid" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 recites the limitation "said pressurized fluid" in line 28. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 6, 7, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carton et al. (US 3,666,288) in view of Furuya et al. (US 5,042,624).

Re-claims 1, 6, 7, and 31-33 Carton et al. disclosed, as shown in fig. 3, q damper 24 comprising: a pressure tube 42; a rod guide assembly (see col. 2, lines 32-33) closing a first end of pressure tube; an end cap closing the second end of pressure tube, a sealed working chamber 43, 44, 46 completely filled with a pressurized gas; a solid piston rod 38; a piston 40 engaging the inner cylindrical surface to divide a first portion of the working chamber into upper and lower working chambers; a valve body

Art Unit: 3683

45 disposed within working chamber to define with the end cap a fluid chamber 46 in a second portion of the working chamber, said valve body fixedly secured to the inner cylindrical surface; and a second flow path 52, being a continuously open flow path, extending through the valve body; wherein pressurized gas within the sealed working chamber being the only component exerting force on said piston.

However Carton et al. failed to disclose a first flow path extending through said piston, a compression and an extension valve assemblies attached to said piston.

Furuya et al. teaches, as shown in fig. 1, compression and extension valve assemblies attached to piston 5.

It would have been obvious to one of ordinary skill in the art to modify the piston of Caron et al. with flow paths and compression and extension valve assemblies attached to the piston, as taught by Furuya et al., in order to optimize the damping between vehicle body and wheels on different road conditions.

7. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carton et al. in view of Furuya et al. as applied to claim 1 above, and further in view of Bonenberger et al. (US 5,285,877).

Carton et al. as modified failed to disclose the second flow path is a tunable restriction.

Bonenberger et al. teaches, as shown in fig. 1, the use of a tunable restriction 8 on partition 7 of a damper.

It would have been obvious to one of ordinary skill in the art to modify the second flow path of Carton et al. as modified with a tunable restriction, as taught by Bonenberger et al., in order to optimize the damping between vehicle body and wheels on different road conditions.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carton et al. in view of Furuya et al. and in view of Bonenberger et al. as applied to claims 1 and 28 above, and further in view of Fister et al. (US 4,518,058).

Carton et al. as modified failed to disclose the first flow path is tunable restriction.

Fister et al. teaches, as shown in fig. 3-4, the use of a tunable restriction 42, 43 on piston 30 of a damper.

It would have been obvious to one of ordinary skill in the art to modify the first flow path of Carton et al. as modified with a tunable restriction, as taught by Fister et al., in order to optimize the damping between vehicle body and wheels on different road conditions.

9. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carton et al. in view of Furuya et al. as applied to claim 1 above, and further in view of Fister et al. (US 4,518,058).

Carton et al. as modified failed to disclose the first flow path is tunable restriction.

Fister et al. teaches, as shown in fig. 3-4, the use of a tunable restriction 42, 43 on piston 30 of a damper.


Art Unit: 3683

It would have been obvious to one of ordinary skill in the art to modify the first flow path of Carton et al. as modified with a tunable restriction, as taught by Fister et al., in order to optimize the damping between vehicle body and wheels on different road conditions.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 571-272-7126. The examiner can normally be reached on Mon.-Fri. from 8:30 A.M. to 2:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor, can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 M. Sy

September 22, 2005

THOMAS WILLIAMS  
PATENT EXAMINER



AO 3683

9-27-05